

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

JAMIE LEONARD,)
)
Plaintiff,)
)
vs.) No. 4:19-CV-00927-RLW
)
ST. CHARLES COUNTY, et al.,)
)
Defendants.)

DEPOSITION OF STEVEN HARRIS, produced, sworn and
examined on AUGUST 23, 2019, between the hours of nine
o'clock in the forenoon and five o'clock in the
afternoon of that day, at the offices of St. Charles
County Counselor, 100 N. Third Street, St. Charles,
Missouri 63301, before Jeanne M. Pedrotty, a Certified
Court Reporter (MO) and Certified Shorthand Reporter
(IL), in a certain cause now pending in the United
States District Court, Eastern District of Missouri,
Eastern Division, between JAMIE LEONARD, Plaintiff,
vs. ST. CHARLES COUNTY, et al., Defendant; on behalf
of the Plaintiff.

<p style="text-align: right;">Page 10</p> <p>1 aggression or anything to administer OC. I said okay. 2 So at that time myself, SPO Scott, SPO Fisher walk 3 over to the cell. The only person giving commands is 4 the off going SPO which that the time was SPO Fisher. 5 SPO Fisher instructed Leonard to stand up, 6 back up to the door, stick his hands behind his back 7 and out through the chuck hole. SPO Fisher was able 8 to apply the handcuffs. Everything was fine at that 9 point. SPO Fisher continued to give directions by 10 telling Inmate Leonard to step to the back of the 11 cell, go ahead and kneel down and place his forehead 12 on the wall. Inmate Leonard did as he was instructed, 13 never said a word. Like I said, throughout every 14 interaction I had with him that night, never talked. 15 At that time, SPO Fisher and SPO Scott 16 entered the cell and I stayed by the door of the cell. 17 Fisher placed his hand on his shoulder and instructed 18 him we're going to do a quick cell search. There was 19 really no need to do a strip search because Inmate 20 Leonard was naked anyway. And we're going to do a 21 quick search of his cell, do not move, if you move you 22 will be sprayed with OC. 23 At that time Inmate Leonard hopped up to 24 his feet. Scott had peeled off to the wall. We were 25 trying to get a hold of him. I stepped in to spray,</p>	<p style="text-align: right;">Page 12</p> <p>1 Q. What is the spectrum or use of force just 2 from least to most? 3 A. So it's a pyramid and it's never used as 4 like step by step. First, basically, it's always one 5 plus. First is presence. Second is verbal. Third is 6 empty hand guidance, showing them what you want to do. 7 Then open hand and then lethal. 8 Q. What's open hand? 9 A. Open hand, strikes, PPCT, taking down, 10 having to physically throw or escort somebody to the 11 ground forcefully. And then OC fits between soft hand 12 and open hand guidance. 13 Q. And what is PPCT? 14 A. Pressure point control tactics. 15 Q. Okay. Are you fairly skilled in open hand 16 methods? 17 A. I have some training through the department 18 and personal training that I go through on my personal 19 time. 20 Q. Okay. What's the personal training that 21 you have been through? 22 A. I have done six years of jin jung kwan 23 hapkido. 24 Q. Jin -- 25 A. Jin jung kwan hapkido.</p>
<p style="text-align: right;">Page 11</p> <p>1 then backed off because I realized I was too close. 2 When SPO -- or when Inmate Leonard peeled off to my 3 right hand side forcing Scott and Fisher to the left, 4 I saw my opportunity to utilize OC. 5 At that time SPO Scott and SPO Fisher were 6 able to escort Leonard on to his mat. And I was 7 pretty much backed up. I was towards the head and 8 kept him secure on the mat. 9 Q. Okay. So did you believe that the use of 10 OC spray was necessary at the time that you used it? 11 A. Yes. 12 Q. Okay. And why did you believe that it was 13 necessary to use the OC spray? 14 A. For the way that the intel on Mr. Leonard 15 was that he was sporadic. He was known to do weird 16 things and the size of Inmate Leonard. He is a very 17 large man. And the way he was acting and dealing with 18 individuals like that in the past, you don't ever 19 really know how much force is required physically. So 20 if we were to use open hand by tackling or anything 21 like that, more injury could have been present at the 22 time to him or to us. 23 So OC is a lesser use of force than open 24 hand. So I thought it best to utilize the OC because 25 of his size.</p>	<p style="text-align: right;">Page 13</p> <p>1 Q. Is that like hikido? 2 A. A little bit with -- it's more direct. 3 It's a Korean-based martial art. 4 Q. Okay. And have you ever used that form of 5 martial art that you just described? 6 A. Just tactics that I am taught through my 7 department. 8 Q. So you haven't used that tactic before. 9 You have only used what you've been trained with at 10 the department? 11 A. Uh-huh. And the reason why I chose hapkido 12 is it's closely related to what we do anyway. But I 13 tend to stick to the department tactics that they 14 teach because it's covered. 15 Q. When you say it's covered, what do you 16 mean? 17 A. Basically liability. It's what they teach 18 so that's what they expect. So if anything were to 19 happen and I would do anything that may have caused 20 injury to an individual, I would like to be covered by 21 my department so I use what they teach. That way if 22 anything were to happen, I'm covered through them. 23 Q. Basically, just did as I was trained? 24 A. Exactly. 25 Q. Okay. And when the OC spray was used, do</p>

<p style="text-align: right;">Page 18</p> <p>1 condition?</p> <p>2 A. No.</p> <p>3 Q. Okay. So from your perspective it would</p> <p>4 have been if you were ordered to do it, you assume it</p> <p>5 would be medically okay to spray it in the eye?</p> <p>6 A. Honestly, you say spray in the eye. We</p> <p>7 initially don't directly spray an individual's eye.</p> <p>8 It's just a general area of the face. So rephrase</p> <p>9 your question.</p> <p>10 (Whereupon, the last question was read</p> <p>11 back.)</p> <p>12 THE WITNESS: Yes.</p> <p>13 Q. (By Mr. Applewhite) And had you been</p> <p>14 informed about any eye condition for Inmate Leonard</p> <p>15 prior to entering the cell?</p> <p>16 A. No.</p> <p>17 Q. Do you ever receive medical briefings about</p> <p>18 an inmate before entering a cell?</p> <p>19 A. No. Unless it is a planned use of force?</p> <p>20 Q. What's a planned use of force?</p> <p>21 A. Planned use of force, such as a riot occurs</p> <p>22 or somebody is refusing to rack and we have the time</p> <p>23 necessary that is required. We do check with medical</p> <p>24 to see if a taser or any type use of force has to be</p> <p>25 excluded such as OC, taser, or anything like that.</p>	<p style="text-align: right;">Page 20</p> <p>1 Q. Okay. And you wrote a report about this</p> <p>2 incident; is that correct?</p> <p>3 A. Yes.</p> <p>4 Q. And when you wrote that report, how many</p> <p>5 drafts of that report did you write?</p> <p>6 A. One.</p> <p>7 Q. Did you consult any other individuals in</p> <p>8 writing that report?</p> <p>9 A. No.</p> <p>10 Q. Did anyone ever tell you what to say in</p> <p>11 that report?</p> <p>12 A. No.</p> <p>13 Q. As to the searching of the cell, what was</p> <p>14 the reason that you were told that you were searching</p> <p>15 Inmate Leonard's cell?</p> <p>16 A. It is that unit protocol to search</p> <p>17 everybody during every change over.</p> <p>18 Q. Okay. So it only happened pursuant to</p> <p>19 protocol; it wasn't in particular response to anything</p> <p>20 that Inmate Leonard did?</p> <p>21 A. No.</p> <p>22 Q. Let me just clarify that. Nothing Inmate</p> <p>23 Leonard did was what caused the cell search?</p> <p>24 A. Correct.</p> <p>25 Q. Okay. Thanks. And did anyone instruct you</p>
<p style="text-align: right;">Page 19</p> <p>1 Q. And this use of force, that was an</p> <p>2 unplanned use of force?</p> <p>3 A. Correct.</p> <p>4 Q. So that protocol would not have been</p> <p>5 utilized here?</p> <p>6 A. No.</p> <p>7 Q. And it was not utilized here?</p> <p>8 A. No.</p> <p>9 Q. As to just your knowledge about the</p> <p>10 policies and procedures involving the use of pepper</p> <p>11 spray, when should pepper spray not be used per</p> <p>12 department policy?</p> <p>13 A. When should it not be used? If an inmate</p> <p>14 was compliant, to intimidate, any of those.</p> <p>15 Basically, you know, do something or I'm going to</p> <p>16 spray you or pick up that piece of trash or I'm going</p> <p>17 to spray you. I mean that's a form of intimidation.</p> <p>18 But if you tell him to go into the cell and they</p> <p>19 refuse, they keep refusing, they become hostile and</p> <p>20 it's a form of de-escalation.</p> <p>21 Q. And outside of as a form of intimidation or</p> <p>22 if they are being compliant, are there any other</p> <p>23 instances that you're aware of in department policy</p> <p>24 that prevented you from using pepper spray?</p> <p>25 A. No.</p>	<p style="text-align: right;">Page 21</p> <p>1 in advance to use OC spray before entering Inmate</p> <p>2 Leonard's cell?</p> <p>3 A. In certain circumstances, yes.</p> <p>4 Q. And what were those circumstances?</p> <p>5 A. If Inmate Leonard had resisted or became</p> <p>6 aggressive.</p> <p>7 Q. Okay.</p> <p>8 A. And moved, stood up, or did anything out of</p> <p>9 the ordinary?</p> <p>10 Q. And one thing that you had in your report</p> <p>11 was that he moved down the wall. And I don't really</p> <p>12 understand what that means. I'm having trouble</p> <p>13 picturing it, I guess.</p> <p>14 A. Okay. So when he stood up, he turned the</p> <p>15 corner and proceeded to try to run out of the cell by</p> <p>16 running down the wall or across the wall.</p> <p>17 Q. What does that mean run down the walls?</p> <p>18 A. Running across the wall.</p> <p>19 Q. So not like -- I was I'm like hands on the</p> <p>20 wall?</p> <p>21 A. No.</p> <p>22 Q. It's just running along the wall?</p> <p>23 A. Along the wall, yeah. It was just my</p> <p>24 phrasing down the wall.</p> <p>25 Q. Okay. And you sprayed him after he failed</p>

6 (Pages 18 - 21)

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1 to comply with an instruction. In your opinion, was
2 Inmate Leonard being aggressive?
3 A. Yes.
4 Q. And what signs of aggression did Inmate
5 Leonard display?
6 A. He was trying to run out of the cell at the
7 time.
8 Q. That would be a form of aggression?
9 A. Yes.
10 Q. Were there any other forms of aggression he
11 was using?
12 A. He was not listening to commands by stop,
13 stop moving, stop resisting. He proceeded to continue
14 to run out of the cell. And with the toilet being
15 there and everything like that, and two others trying
16 to go hands on, I couldn't let him get out of the
17 cell.
18 Q. What would have happened if he got out of
19 the cell?
20 A. A larger area, a lot more obstacles, a lot
21 more things to be injured on for him and to us. He
22 could also escape out of the unit because the door,
23 the slider had been open at the time. I believe -- I
24 don't remember exactly. So either way, if he got out
25 of the cell he would have been in a larger area, which

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1 would have been a lot harder to get control over him.
2 Q. Okay. And that was the reason why you
3 sprayed him?
4 A. Yes.
5 Q. And afterwards, after he was sprayed, did
6 he immediately fall to the ground? I know in your
7 report you said "fell to the ground"?
8 A. At that point he fell on top of his mat
9 with the assistance of Officer Scott and Officer
10 Fisher. So he completely stopped resisting and no
11 further use of force was necessary to control Inmate
12 Leonard. He had stopped fighting. We de-escalated
13 the situation and proceeded to wait for backup.
14 Q. And then after he was sprayed, did -- I
15 believe you said SPO Scott and Donte Fisher, did
16 either of them say anything to you?
17 A. To me?
18 Q. Yeah.
19 A. No; not that I remember.
20 Q. Okay.
21 A. Other than trying to calm Inmate Leonard
22 down.
23 Q. And what was being done to calm Inmate
24 Leonard down?
25 A. Saying, "Hey, it's going to be okay. Don't

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1 move. We'll get you into another cell." That's what
2 happened. And until backup came and we were able to
3 get him out of the cell, we just stayed there and
4 waited for backup.
5 Q. And what backup did come to the cell?
6 A. At that time a few more officers; CO Ball,
7 and CO Batchy that I remember directly came on scene.
8 Another CO before them, CO Smith came and so it was
9 all of us that had taken him out of the cell and moved
10 him from cell five to cell one, uncontaminated. And
11 after that, after we were able to uncuff Mr. Leonard,
12 we instructed Mr. Leonard to wash his face from the
13 sink which doesn't just squirt down, but it squirts up
14 and can be utilized as eye wash station. And at that
15 point Mr. Leonard was using the water to flush off his
16 face. And as far as I could see his eyes.
17 Q. When the backup that you described came,
18 was there any conversation between you and any of the
19 individuals that came as backup?
20 A. No. Our main goal was to finish the search
21 and to get Mr. Leonard out of that cell and moved into
22 a different cell.
23 Q. Was anything found in the cell search?
24 A. No.
25 Q. And why the change of cells? Was it like a

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1 better cell?
2 A. No. That cell was contaminated with OC at
3 the time. So why keep an individual in the cell
4 that's contaminated and it's going to continue to
5 irritate him. You move him to a different cell and
6 decontaminate that cell. That way he can
7 decontaminate himself.
8 Q. Okay. Really quick, I'd just like to take
9 a break to stand up.
10 MR. HEFFNER: Okay.
11 MR. APPLEWHITE: Just five minutes.
12 (Whereupon, a short break was taken.)
13 Q. (By Mr. Applewhite) It's after a brief
14 break. We're back on the record. So last we left
15 this Inmate Leonard was then brought to a new unit
16 where he was instructed to wash his eyes; is that
17 right?
18 A. Wash his eyes and face, yes.
19 Q. And did he wash his eyes and face?
20 A. When I left the unit he was. He was using
21 the sink to splash water on to his face.
22 Q. And I forgot to ask you this before, when
23 you did spray him, do you remember where the OC spray
24 hit on Leonard -- Inmate Leonard's face?
25 A. You know, like I said, general location. I